

Attorney Docket No. 4982/4
PATENT

information on the at least one backup device, and communicates at least part of the index of information to the management software component [software].

19. (Amended) The backup and retrieval system of claim 16 wherein the management software component [software] and the media software component [software] operate on different computing devices.

20. (Amended) The backup and retrieval system of claim 16 wherein the management software component [software] and the media software component [software] operate on the same computing device.

REMARKS

In the most recent Office Action dated November 14, 2002, the Examiner rejects claims 1-21 under 35 USC § 102(e) as anticipated by the European Patent Application (EP0899662 A1) of Stephen Gold and Jon Bathie, hereafter "Gold and Bathie". As discussed in the interview, the applicants cancel claims 1-5 and amend claims 6, 11, and 16 to more fully claim aspects of the present invention. For at least the reasons set forth below, the applicants respectfully assert that the pending claims are patentable over the prior art of record and request their allowance.

As discussed in the interview, Gold and Bathie does not contain any suggestion or teaching of a plurality of media software agents. By contrast, the system discussed in Gold and Bathie uses a single backup server that is responsible for performing all backups and restores in the network. Thus, unlike applicants' system, the system discussed in Gold and Bathie does not have the ability to load balance backups and restores, since processing tasks cannot be spread

Attorney Docket No. 4982/4
PATENT

among a plurality of media software components. In the system described in Gold and Bathie, processing requirements for the single backup server described in Gold and Bathie will increase proportionately to the amount of data being backed up or restored by the single backup server. Indeed, one important advantage offered by the present system is to eliminate the processing bottlenecks caused by the very architecture discussed in Gold and Bathie.

Thus, Gold and Bathie does not disclose or suggest, as set forth in applicants' claim 6, a backup and retrieval system operating on a first network device and a second network device, the backup and retrieval system comprising: a management software component that operates on the first network device; a plurality of media software components communicatively coupled to the management software component that operate on at least a second network device; a storage device communicatively coupled to the media software components; the management software component selects a media software component among the plurality of media software components and controls the selected media software component; and the selected media software component controls backup data to the storage device. For at least the above reasons, and as further discussed in the interview, claim 6 is patentable over the cited art.

Thus, Gold and Bathie does not disclose or suggest, as set forth in applicants' claim 11, a backup and retrieval system operating across a network containing a plurality of network devices, the backup and retrieval system comprising: a management software component that operates on the first network device of the plurality of network devices; a plurality of media software components communicatively coupled to the management software component; a storage device communicatively coupled to the media software components, the media software components controlling backups to the storage device; and the management software component selects a media software component among the plurality of media software

Attorney Docket No. 4982/4
PATENT

components and controls the selected media software component. For at least the above reasons, and as further discussed in the interview, claim 11 is patentable over the cited art.

Gold and Bathie also does not disclose or suggest, as set forth in applicants' claim 16, a backup and retrieval system for a network, the network comprising a plurality of computing devices, the plurality of computing devices comprising a first computing device and a second computing device, the backup and retrieval system comprising: a management software component running on the first computing device; a plurality of media software components communicatively coupled to the management software component; at least one backup device communicatively coupled to the media software components; a client software component communicatively coupled to the management software component and the media software components; wherein the media software components control the at least one backup device; the management software component controls the media software components; the client software component controls backups of any particular computing device; and at least one of either the media software components or the client software component runs on the second computing device. For at least the above reasons, and as further discussed in the interview, claim 16 is patentable over the cited art.

The dependent claims of the present application contain additional features that further substantially distinguish the invention of the present application over Gold and Bathie and the other prior art of record. However, given the applicants' position on the patentability of the independent claims, it is not deemed necessary at this point to delineate such distinctions. New claims 22-51 are being added following the suggestion made by the Examiner at the interview that these features as claimed further distinguish the invention over the prior art of record.

Attorney Docket No. 4982/4
PATENT

For at least all of the above reasons, Applicants respectfully request that the Examiner withdraw all rejections, and allowance of all the pending claims is respectfully solicited. To expedite prosecution of this application to allowance, the examiner is invited to call the applicants' undersigned representative to discuss any issues relating to this application.

Respectfully submitted,

Dated: June 2, 2003

I hereby certify that the correspondence attached herewith is being transmitted by facsimile to the Commissioner for Patents, Alexandria, VA 22313:


6-2-03
Date

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